

Applicants : Barrott et al.
Serial No. : 09/409,566

Remarks

By this amendment, claims 24, 25, 26, 31, 32, 39, 48, 53, and 66 are amended. In particular, claims 25, 26, 31, 32, 39, and 53 are amended not for purposes of patentability, but rather for consistency. Claims 67 and 68 are new. No new matter has been entered. Accordingly, claims 24-68 are pending in this application.

Rejection under 35 USC 102(e)

The Examiner has rejected claims 24, 25, 27-37, 42-60, 62, 63 and 66 under 35 USC 102(e) as being anticipated by Slotznick (of record) (US 5,983,200).

Independent claims 24, 48, and 66 have been amended to recite, *inter alia*, employing/running on a computer “processes adapted to guide the user in electronically planning the funeral ceremony, to access a database storing images associated with a plurality of funeral products, to retrieve and initiate a display of a funeral item image on the computer in response to a request, and to generate a funeral plan arranging the funeral ceremony.” Slotznick fails to disclose or suggest such features. As the above anticipatory rejection to the claims has been overcome, withdrawal of this rejection is respectfully requested.

Rejection under 35 USC 103(a)

Claims 24-63 and 66 are rejected under 35 USC 103(a) as being unpatentable over Slotznick in view of Lingwall. Claims 64 and 65 are rejected as being unpatentable over Slotznick in view of Lingwall as applied to claim 24, and further in view of Tavor et al, of record (US 6,070,149). In view of these rejections, independent claims 24, 48, and 66 have been amended to recite features that are neither disclosed nor suggested by the cited art.

As mentioned above, Slotznick fails to disclose or suggest the features of employing/running on a computer “processes adapted to guide the user in electronically planning the funeral ceremony, to access a database storing images associated with a plurality of funeral products, to retrieve and initiate a display of a funeral item image on the computer in response to a request, and to generate a funeral plan arranging the funeral

ceremony.” The Lingwall publication is cited for disclosing funeral planning software that includes pre-planning. Applicants note however, that Lingwall does not disclose or suggested that the Data Digger software includes processes “processes adapted to guide the user in electronically planning the funeral ceremony, to access a database storing images associated with a plurality of funeral products, to retrieve and initiate a display of a funeral item image on the computer in response to a request, and to generate a funeral plan arranging the funeral ceremony.”

As secondary evidence of the above assertion, Applicants have submitted in a supplemental information disclosure statement mailed October 20, 2003, four user guide versions of the Data Digger software that were located by contacting Mr. Kim Brand, Data Digger's chief development engineer mentioned in the Lingwall publication. As clearly disclosed by these user guides, the Data Digger software does not include “processes adapted to guide the user in electronically planning the funeral ceremony, to access a database storing images associated with a plurality of funeral products, to retrieve and initiate a display of a funeral item image on the computer in response to a request, and to generate a funeral plan arranging the funeral ceremony.”

Tavor et al is cited for shopping over the internet that uses multimedia presentations to make the session more enjoyable for the customer. Accordingly, Tavor et al. does not cure the above noted deficiencies of the combined teachings of Slotnick and Lindwall, as Tavor also fails to disclose or suggest employing/running on a computer “processes adapted to guide the user in electronically planning the funeral ceremony, to access a database storing images associated with a plurality of funeral products, to retrieve and initiate a display of a funeral item image on the computer in response to a request, and to generate a funeral plan arranging the funeral ceremony.” As the above obviousness rejections to the claims has been overcome, withdrawal of these rejections is respectfully requested.

As a secondary consideration of nonobviousness, Applicants would further point out that the present application was filed September 30, 1999, many years after the Lingwall publication (1990). Yet, despite the fact that the Data Digger software was in existence for over nine years when the present invention was filed, the Data Digger

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software as evidence by the provided user manuals did not make the combination which the examiner indicates would have been obvious. Nor did anyone else make the allegedly obvious combination in the nine years after the Lingwall publication and use of the Data Digger software by the 600 funeral homes reported by Lingwall (sixth paragraph, first page). Such facts further substantiates the assertion that this long-felt, but unsolved, need is objective evidence of non-obviousness. See MPEP 2145. It is for this reason also that as explicitly stated in Exhibit B provided with the 37 C.F.R. 1.131 declaration filed with Applicants' response of August 5, 2002, the present invention created a stir in the funeral service industry when introduced at the National Funeral Director Association Convention in October, 1998.

Furthermore, Applicants also wish to point out to the Examiner that additional patent applications (U.S. Patent Application Nos. US2003/0070145, and US2003/0004829)(copies provided) from competitors have further attempted to capitalize on the innovation of the applicants by filing related patent applications years after the present invention.

Finally, as of August, 2003, the Applicants have sold 458 systems incorporating the claimed invention (copy of the report sheet is provided for the Examiner's review). Commercial success is relevant in resolving the issue of nonobviousness. *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984).

In summary, Applicants have provided the following secondary considerations in support of a determination of nonobviousness: (1) the invention's commercial success, (2) long felt but unresolved needs, (3) the failure of others, (4) praise by others, and (5) copying of the invention by competitors.

New Claims

Claims 67-70 are directed to a computer-implemented method for guiding a funeral planning session and permitting a user to electronically plan a funeral on a computer. As discussed above, the prior art does not teach or suggest employing on the computer a funeral planning routine comprising processes adapted to guide the user in

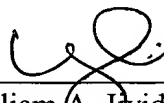
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electronically planning the funeral ceremony, and to generate a funeral plan. Additionally, the prior art fails to teach or suggest a funeral planning routine comprising processes adapted to access a database storing images associated with a plurality of funeral products, and to retrieve and initiate a display of a funeral item image on the computer in response to a request. Therefore, claims 67-70 are allowable over the cited and applied prior art.

Conclusion

Applicants respectfully submit that in view of the above amendments and remarks the present application is in condition for allowance. The Examiner is encouraged to contact the undersigned to resolve efficiently any formal matters or to discuss any aspects of the application or of this response. Otherwise, early notification of allowable subject matter is respectfully solicited.

Respectfully submitted,
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